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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/690,200

10/21/2003

Salman Akram

4244.5US (97-1355.05/US)

3680

24247

7590

06/01/2005

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EXAMINER

DOLAN, JENNIFER M

ART UNIT

PAPER NUMBER

2813

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action Before the Filing of an Appeal Brief	Application No. 10/690,200	Applicant(s) AKRAM ET AL.	
	Examiner Jennifer M. Dolan	Art Unit 2813	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: none.
- Claim(s) objected to: none.
- Claim(s) rejected: 1 and 5.
- Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No. _____.
13. ☐ Other: _____.


CARL WHITEHEAD, JR.
 SUPERVISORY PATENT EXAMINER
 TECHNOLOGY CENTER 2800

Continuation of 11. does NOT place the application in condition for allowance for the following reasons: The Applicant asserts that the subject matter of claim 1 is clearly shown in figure 6 and paragraph 0045 of the specification. The Examiner respectfully disagrees. Claim 1 requires a conformal layer of a first thickness disposed on the sidewalls, a "single layer sidewall spacer" of a second thickness "overlying" the first layer; and "another single layer sidewall spacer" having a third thickness intermediate the first and second thicknesses "overlying" the single layer sidewall spacer. In other words, a lamination of at least three layers is required, with a conformal/primary layer having a first thickness, a single layer sidewall spacer/secondary layer having a second thickness, and "another" sidewall spacer/third layer having a third thickness intermediate the first and second, where the three layers are mutually stacked on the sidewalls (Note that the claimed "another" layer is separate from the "sidewall spacer" layer, since it is claimed as "overlying" the "sidewall spacer layer").

This does not correspond with the teachings of paragraphs 0042 - 0045 of the specification or with figures 4-6, in which only two layers are laminated on the sidewall: a "primary sidewall" conformal layer of a first thickness, and a "secondary" sidewall spacer of a second thickness. The "third thickness intermediate to the first and second thickness" described in the specification refers to the thickness of the sidewall spacer layer after it is partially etched (going from figure 5 to figure 6; also see paragraph 0045). In other words, the claimed subject matter includes a lamination of a first layer with a first thickness, a second layer with a second thickness, and a third layer with a third thickness, whereas the specification teaches a lamination having a first layer with a first thickness and a second layer with a second thickness, where the second layer is etched down to form a third thickness.

Furthermore, the doped regions are formed in claim 1 in the following sequence:

1. deposit first/conformal layer
2. deposit second/sidewall spacer layer
3. perform first doping,
4. deposit third/"another" sidewall spacer layer
5. perform second doping.
6. substantially remove third/"another" layer
7. perform third doping.

In the specification and figures, however, they are disclosed in the following sequence (see paragraphs 0041-0045):

1. perform first doping (see figure 4)
2. deposit first/conformal layer (26; see paragraph 0041 and figure 4).
3. deposit second/"sidewall spacer" layer (28; paragraph 0042).
4. perform second doping step (figure 5; paragraph 0043).
5. partially remove second sidewall spacer until it has a third thickness (29; see figure 6; paragraph 0045).
6. perform third doping (paragraph 0045)

The Examiner maintains that the material of claim 1 does not appear in the Applicant's disclosure.